

JHS

17 0923

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

Plaintiff, Eileen A Sabel

In Forma Pauperis

V.

Civil Action No.

Defendant, Zio Pizza Palace & Grill
Margarita Contreras, David Lu,
Zio Pizza Palace & Grill, LLC, LDLD
Corporation

97-CV-Pro Se

COMPLAINT

COMES NOW the plaintiff, Eileen A Sabel, appearing pro se, and for a complaint
against the defendant above named, states, alleges, and avers as follows:

JURISDICTION

1. This Court has subject matter jurisdiction under 28 U.S.C. sections 1331 and 1343.
2. This action is commenced pursuant to 28 U.S.C. sections 2201 and 2202 and 42 U.S.C., section 1983.

GENERAL ALLEGATIONS

3. I, Eileen A. Sabel, the plaintiff, am a citizen of the State of Pennsylvania, United States of America.
4. Defendants, Zio Pizza Palace & Grill, Zio Pizza Palace & Grill, Margarita Contreras, David Lu, Zio Pizza Palace & Grill, LLC, LDLD Corporation (hereby collectively known as Zio) run or own and at all times pertinent to the complaint have owned a commercial business, a restaurant, at 157 N 9th Street, Philadelphia, PA 19107.
5. I am an individual with disabilities that cause mobility impairment. I use a motorized wheelchair for mobility.
6. I want to eat at Zio but the establishment is inaccessible to persons like me who use wheelchair.
7. On July 26, 1990, Congress enacted the Americans with Disabilities Act, 42 U.S.C. section 12101, et seq; establishing the most important civil rights law for persons with disabilities in our country's history.
8. The Congressional statutory findings include:
 - a. "Some 43,000,000 Americans have one of more physical or mental disabilities.

- b. "Historically, society has tended to isolate and segregate individuals with disabilities and despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
 - c. "Discrimination against individuals with disabilities persists in such critical areas as ...public accommodations;
 - d. "Individuals with disabilities continually encounter various forms of discrimination, including . . .the discriminatory effects of architectural ... barriers; [and]
 - e. "The continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity . . .To pursue those opportunities for which our free society is justifiably famous . . . "42 U.S.C. section 12101 (a).
9. Congress went on to state explicitly the purpose of the Americans with Disabilities Act, to be:
- a. "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
 - b. "to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; and
 - c. "to invoke the sweep of Congressional authority . . .To regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities." 42 U.S.C. section 12101 (b).
10. Congress gave commercial businesses one and a half years to implement the Act. The effective date was January 26, 1992.
11. Nevertheless, Zio has not eliminated step that prevents me and other persons using wheelchairs from entering, this commercial establishment. Two photos of the barrier is attached as Exhibit "A" and "B".
12. One of the most important parts of the Americans with Disabilities Act is Title III, known as the "Public Accommodations and Services Operated by Private Entities." 42 U.S.C. section 12181.
13. Congress included a "restaurant" as a public accommodation covered by the Act. 42 U.S.C. section 12181.
14. Zio's business is a restaurant.
15. As relevant to the present action, discrimination includes, "a failure to remove architectural barriers . . . that are structural in nature, in existing facilities . . . where such is readily achievable." See Exhibit D, 42 U.S.C. section 12182 (b) (2) (A) (iv). See Exhibit E, Photographs.
16. The U.S. Department of Justice, in promulgating the federal regulations to implement this Act, defined "readily achievable" to mean "easily accomplishable and able to be carried out without much difficulty or expense," including installing an entrance ramp. "28 C.F.R. section 36.304 (a)- (c).
17. Other commercial facilities similar to the defendant's have made similar modifications, like what I am asking here.
18. Defendant could easily make its business accessible but has chosen not to comply with the Americans with Disabilities Act.

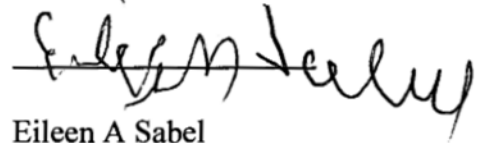
19. To assist businesses with complying with the ADA, Congress has enacted a tax credit for small businesses and a tax deduction for all businesses. See Section 44 and 190 of the IRS Code. An eligible small business is allowed a tax credit equal to 50% of the amount of the eligible access expenditures between \$250 and \$10,500 for any tax year. A business that removes architectural barriers e.g., by modifying ramps, grading, entrances, doors and doorways, may receive an annual tax deduction of up to \$15,000 each year.
20. Plaintiff want to eat in the defendant's restaurant.

FIRST CLAIM OF RELIEF

21. Pursuant to the Americans with Disabilities Act, 42 U.S.C. section 12101, et seq., and the federal regulations promulgated pursuant to this Act, 28 C.F.R. 36.304, defendant was to make the commercial facility at 157 N 9th Street, Philadelphia PA 19107 accessible by January 26, 1992. To date, defendant has not.
22. By failing to remove the architectural barrier where such removal is readily achievable, defendant discriminates against plaintiffs and violates the Americans with Disabilities Act.

WHEREFORE, the plaintiff, Eileen A Sabel, pray that the Court issue an injunction enjoining the defendant from continuing its discrimination and that the Court award plaintiffs such additional or alternative relief as may be just, proper, and equitable, including costs.

Respectfully submitted,



Eileen A Sabel
911 North Franklin Street,
Apt. 514 Phila. Pa. 19123
215-925-2219

PRO SE

Dated: 2-27-17

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

Eileen A. Sabel
911 N. Franklin St. Apt 514
Philadelphia PA 19123
 (In the space above enter the full name(s) of the plaintiff(s).)

17 0923

- against -

COMPLAINT

Jury Trial: ☐ Yes ☒ No
 (check one)

Zio Pizza Palace & Grill
157 N. 9th Street
Philadelphia PA 19107, et.al.

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff	Name	<u>Eileen A. Sabel</u>
	Street Address	<u>911 N. Franklin St. Apt 514</u>
	County, City	<u>Philadelphia, Philadelphia</u>
	State & Zip Code	<u>PA 19123</u>
	Telephone Number	<u>215-925-2219</u>

- B. List all defendants. You should state the full name of the defendants, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant can be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Margarita Contreras / Zio Pizza Palace & Grill LLC
 Street Address 157 N. 9th Street
 County, City Philadelphia, Philadelphia
 State & Zip Code PA 19107

Defendant No. 2 Name David Lu - LDLP Corp
 Street Address 1 Dewey RD
 County, City Montgomery Cheltenham
 State & Zip Code PA 19012

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

- A. What is the basis for federal court jurisdiction? (check all that apply)
☒ Federal Questions ☐ Diversity of Citizenship

- B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? Violation of Americans with Disabilities Act
ADA, 42 U.S.C. 12101

- C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. Where did the events giving rise to your claim(s) occur? Eileen A. Sabel was denied entrance due to 1 step of 3.5 inches

- B. What date and approximate time did the events giving rise to your claim(s) occur? Afternoon of October 5, 2016

- C. Facts: I (Eileen A. Sabel) was unable to enter Zius Pizza Palace & Grill and order food due to one step.

What happened to you?

Who did what?

I asked the owner Margarita Contreras if there were plans to become ADA compliant. She indicated that there were no plans in place. She was very nasty, patronizing, and threatened to call the police. She used 'fighting' words. She said she was busy and slammed door in my face. No

Was anyone else involved?

Who else saw what happened?

Morgan Hugo, Independent Living Specialist at Liberty Resource, Inc. Lately Maddox, Liberty Resource, Inc. Staff

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

My civil rights were denied to me
and I was unable to enter the establishment.
I had to stand outside in the rain and deep cold.
I experienced discomfort from the weather.

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

I want the restaurant Zio Pizza Palace & Grill
to install a ramp and be compliant under the ADA
I want her to apologize to me.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 24 day of February, 2017.

Signature of Plaintiff

Mailing Address

Telephone Number

Fax Number (if you have one)

E-mail Address

Silberstein
911 N. Franklin St. Apt 519
Philadelphia PA 19123

215-923-2219

happy chan 8 @ gmail.com

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20____, I am delivering this complaint to prison authorities to be mailed to the Clerk's Office of the United States District Court for the Eastern District of Pennsylvania.

Signature of Plaintiff: _____

Inmate Number _____



